

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

MATTHEW GLEN MORROW,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-09-633-M
	)	
JUSTIN JONES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION:**  
**MOTION FOR A DEFAULT JUDGMENT OR OTHER SANCTIONS**

Invoking Fed. R. Civ. P. 37(b), the Plaintiff has moved for a default judgment or other sanctions based on the Defendants' omissions in the *Martinez* report (Doc. 189 at p. 1). This rule authorizes sanctions for failure to provide or permit discovery. A *Martinez* order is not an order compelling discovery and does not fall within Rule 37(b). Accordingly, the Court should deny the Plaintiff's motion for a default judgment or sanctions (Doc. 189).

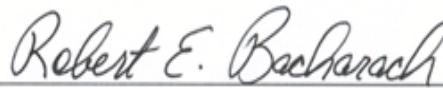
The parties can object to this report and recommendation. To object, the party must file an objection with the Clerk of this Court by September 16, 2011. *See* Fed. R. Civ. P. 6(d), 72(b)(2); 28 U.S.C. § 636(b)(1) (2009 supp.). The failure to timely object would foreclose appellate review of the suggested ruling.<sup>1</sup>

The present report does not discharge the referral.

---

<sup>1</sup> *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) ("Issues raised for the first time in objections to the magistrate judge's recommendation are deemed waived.").

Entered this 30th day of August, 2011.

A handwritten signature in cursive script, reading "Robert E. Bacharach". The signature is written in black ink and is positioned above a horizontal line.

Robert E. Bacharach  
United States Magistrate Judge